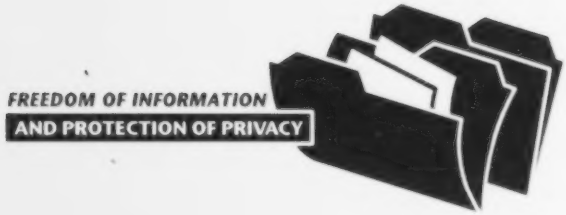

FREEDOM OF INFORMATION AND PROTECTION OF PRIVACY

Guide to Identifying Personal Information Banks

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Introduction

The *Freedom of Information and Protection of Privacy Act* (FOIP Act) requires all public bodies to make a directory that lists the public body's personal information banks (PIBs) available to the public for inspection and copying. The purpose of making this information available is to help the public know what personal information the public body might have about them as individuals.

The requirement for a public body to produce a directory of its PIBs is set out in **section 87.1** of the Act. This section was created when the *FOIP Amendment Act, 2003* was passed in May 2003. It is the result of recommendations contained in the November 2002 report of an all-party Select Special Committee that was appointed by the Legislative Assembly to review the FOIP Act.

Section 87.1 replaces provisions for directories of personal information banks previously set out mainly in **section 87** of the Act (which is repealed and replaced by **sections 87** and **87.1**).

Section 87.1 significantly changes the requirements for all public bodies. The directory is no longer the responsibility of the Minister of Government Services. Instead, the head of the public body is responsible for maintaining and publishing a directory of its PIBS, which may be in either printed or electronic form.

In addition, the required content of the directory of PIBs held by public bodies (which was previously more extensive for provincial government public bodies) is made the same for all public bodies.

The directory must include:

- the title and location of the PIB,
- a description of the kind of personal information and the categories of individuals whose personal information is included,
- the authority for collecting the personal information in the PIB, and
- the purposes for which the personal information is collected or compiled and the purposes for which it is used or disclosed.

As a consequence of the transfer of responsibility to the head of the public body, the Act no longer requires the head to notify the Minister of Government Services of a use or disclosure for a purpose different from that listed in the directory. **Section 87.1(3)** requires this information to be recorded, and either attached or linked to the personal information in question, and the purpose must be included in the next update to the directory.

Section 87.1(4) requires the head of a public body to ensure that the directory is kept as current as is practical.

For more information about the amendments, see *FOIP Bulletin No. 14 - FOIP Amendment Act, 2003* available at www.gov.ab.ca/foip/guidelines_practices/bulletins/bulletin14.cfm.

Purpose of this Guide

The following discussion of personal information banks is intended as a guide for FOIP Coordinators in public bodies. The purpose is to assist the Coordinator with:

- identifying PIBs, and
- developing the list of PIBs in the custody or under the control of the public body.

What is a Personal Information Bank?

The *Freedom of Information and Protection of Privacy Act* defines "personal information banks" as:

> *"...a collection of personal information that is organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual."* **(section 87.1(5))**

How to Identify Personal Information Banks

The definition of a PIB has three key components:

1. It contains "personal information."
2. It takes the form of "a collection."
3. It is "organized or retrievable by the name or an identifying number, symbol or other particular assigned to an individual."

To determine whether a collection of information should be identified as a personal information bank, you should first ask yourself the following three questions.

1. Is the information "personal" according to the Act?

The Act includes a description of the most common types of personal information **(section 1(n))**. "Personal information" means recorded information about an identifiable individual, including:

- the individual's name, home or business address or home or business telephone number,
- the individual's race, national or ethnic origin, colour, or religious or political beliefs or associations,
- the individual's age, sex, marital status or family status,
- an identifying number, symbol or other particular assigned to the individual,
- the individual's fingerprints, other biometric information, blood type, genetic information or inheritable characteristics,

- information about the individual's health and health care history, including information about a physical or mental disability,
- information about the individual's educational, financial, employment or criminal history, including criminal records where a pardon has been given,
- anyone else's opinions about the individual, and
- the individual's personal views or opinions, except if they are about someone else.

This list is not exhaustive. Rather, it includes common types of information that is considered personal. Any information that can be associated with a specific individual would also be considered personal information.

2. Does the "personal information" take the form of a "collection?"

The *Oxford English Dictionary* defines collection as "a group of things collected together, especially systematically." In the context of records containing personal information, the number of records should not be the criteria. Here are some general types of "collections" that illustrate the range of collections of personal information that may support operations of your organization:

- applications or registrations for benefits or services
- client or customer files and databases
- membership lists, mailing lists and contact databases
- licensing applications and certificates
- program participation information
- investigations, inspections, audits, claims adjudication

A collection can also include records in multiple media, such as pictures, audiotapes, videotapes, print and electronic media.

3. Is the collection of personal information organized or retrievable by the name of an individual or by an identifying number, symbol or other particular assigned to an individual?

In practice, this means the information has to be organized or retrievable by name, health card number, driver's license number, student identification number or some other unique identifier.

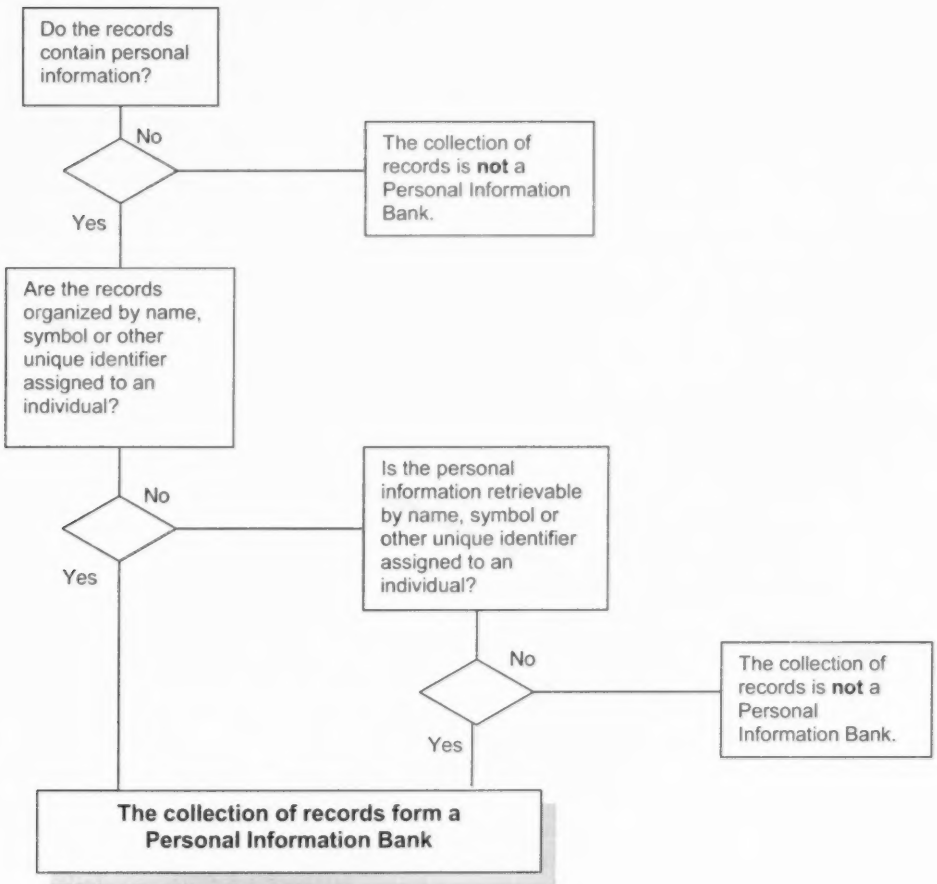
In many cases, client files are organized by client number or the name of the client. These files are both organized and retrievable from filing cabinets by the unique identifier (i.e. client number or client name) and would be considered a personal information bank. For example, a database of registrants for a training program that contains a person's name and telephone number, where each number is associated with a specific name, is both "organized" and "retrievable" by the person's name and is considered a PIB. Another

example might be a list of "sign-in" sheets at secure buildings. These lists often include the names of individuals and the time the person enters and exits the building. While the list is not in alphabetical order, it is organized by name (as a column on the sheet).

Most electronic databases can be searched by any data field, including name or an identification number. In some electronic databases personal information is incidental or not the main purpose of the database. For example, an inventory of computer equipment will list manufacturers, model numbers, peripherals, software, warranties etc. It may also include the computer user's name. Such a database is not required to be listed as a personal information bank.

Figure 1 below is a decision chart that can help you identify personal information banks in your organization.

Figure 1
Identifying personal information banks


Do the records contain personal information?
No
The collection of records is **not** a Personal Information Bank.
Yes
Are the records organized by name, symbol or other unique identifier assigned to an individual?
No
Is the personal information retrievable by name, symbol or other unique identifier assigned to an individual?
Yes
No
The collection of records is **not** a Personal Information Bank.
Yes
The collection of records form a Personal Information Bank

What Information to Provide

For each of the personal information banks that you identify, you will have to provide the following information in your list of personal information banks:

- **Title**: Describe the personal information bank. The title should be descriptive of the information contained, and not necessarily the public body's name or system acronym that you commonly use. Remember, the purpose is to alert the public about what types of information the public body may have about them.
- **Location**: List the location(s) where the information is maintained. Provide the name of the business unit or program but not the address. This will usually be the business unit that maintains the collection, but may also include other offices that have copies of the PIB in their custody. Do not include the address of the business unit or program.
- **Information maintained**: Describe the kind of personal information contained in the collection.
- **Individuals**: Describe the categories of individuals for whom personal information is contained in the collection.
- **Use**: Describe the purpose for which the personal information was collected or compiled and explain how the personal information is used or disclosed. List all current uses of the information by the public body or other authorized persons. Include authorized consistent uses, other permitted disclosures and authorized information exchanges.
- **Legal authority**: List the specific legal authority for the collection of the personal information. This may be a statute or a regulation. If more than one legal authority exists, list all of them. **Section 33** of the *Freedom of Information and Protection of Privacy Act* sets out the only authorities for collection of personal information:

  > ***33*** *No personal information may be collected by or for a public body unless*
  >
  > *(a) the collection of that information is expressly authorized by or under an enactment of Alberta, or Canada,*
  >
  > *(b) that information is collected for the purposes of law enforcement, or*
  >
  > *(c) that information relates directly to and is necessary for an operating program or activity of the public body."*

  In most cases, there will be a specific Act or regulation that authorizes the collection of personal information (e.g. the *School Act*, *Post-secondary Learning Act*, *Hospitals Act*, *Regional Health Authorities Act*, *Municipal Government Act*, *Police Act.)*. For example, if the records are part of a program, you will want to cite the authority for the program, as long as the Act or its subordinate legislation "expressly authorizes"

the collection of personal information. You only need to provide the title of the Act and/or regulation.

In cases where there is not an Act of Alberta or Canada that expressly allows for the collection of personal information, **section 33(c)** of the *Freedom of Information and Protection of Privacy Act* may allow for the collection of the personal information. As noted above, however, the information must relate directly to and be necessary for an operating program of the public body. If this is the case, you may list the *Freedom of Information and Protection of Privacy Act* as the legal authority for collecting the personal information contained in the personal information bank. In these cases, please cite **section 33(c)** of the *Freedom of Information and Protection of Privacy Act*.

If multiple Acts can be cited as legal authorities for collecting the personal information, you should list every Act.

If your public body is maintaining PIBs for which historical records have already been sent to the Provincial Archives of Alberta or another archives, you, as well as the Archives, will continue to list the PIBs. In these cases, you should consult with the Archives to ensure that the PIB is described consistently by both the Archives and your public body.

If you have any questions, or need help identifying a PIB, please contact the Access and Privacy Branch of Alberta Government Services.

Commonly Asked Questions

1. *What if you take a portion of information from an existing PIB, such as a database, and export it to a new database or file?*

Anytime you export data and form a new collection of data it is a new PIB providing it meets all other criteria. Often, a new collection of personal information will be created as the result of data matching agreements within a public body, with other public bodies or with other levels of government. In these cases, a new PIB should be identified and information reported on it. Example #1 is one such case.

Example #1

Children's Services is implementing a new program – the Child Health Benefit. The ministry is creating a new database containing the names and other personal information about people eligible for the program. This database will be created by "matching" information from existing PIBs at Children's Services and Learning as well as information from other sources. The result of the match is maintained as a separate collection. In this case, the result of the match is a new PIB.

2. *Does the source of the information affect its status as a PIB? For example, if a list of names and phone numbers are in the "public domain" (e.g. taken from a telephone book) can we exclude them from being a PIB?*

Since the *Act* does not discuss source as part of the definition, the source of the information does **not** affect its status as "personal information" or a PIB.

For example, you can collect names, addresses and phone numbers for a group of people from a number of different public telephone directories, association directories or other sources. Even though the information is available elsewhere, once you have collected the personal information onto a list or into a database, it is a new PIB as long as it meets all three of the conditions discussed earlier.

While this sounds like a straightforward practice, it is not a trivial concern. Many members of the public are very sensitive about the use of their telephone numbers in lists to be used for promotional or other purposes despite the fact that their phone numbers are already in the telephone book.

Example #2 shows how a collection of contact names and mailing addresses to support program delivery is reported as a personal information bank.

Example #2

Alberta Environment keeps a mailing list of environmental education practitioners. The records include the names and addresses of individuals. The records clearly contain personal information, are maintained as a collection, and the information is organized in a way that information is retrievable by the person's name or address. Here is how the ministry could identify the PIB for the directory.

Title: Environmental education practitioners mailing lists.

Location: Education Branch.

Information maintained: Names and mailing addresses (usually place of employment).

Individuals: People who develop, present or distribute environmental education resources.

Use: Invite or notify environmental educational practitioners of upcoming events.

Legal authority: Government Organization Act[1]

[1] The *Government Organization Act* should only be used as an authority where no other more specific authority exists. For more information on legal authority, see page 8.

3. What if the public body has similar collections of information, used in the same way, but located in a number of different offices? Is it one PIB or a number of separate PIBs?

If the information is identical, and there are simply copies in different locations, it can be listed as one PIB. If the information forms part of a general collection, even if it is physically located in different offices, you can also treat the information as one PIB. However, all of the locations where this information is kept must still be reported, as in Example #3.

Example #3

Alberta Transportation maintains information about the Adopt-a-Highway Program. The information includes names of applicants and participants. The records clearly contain personal information, are maintained as a collection, and the information is organized in a way that personal information is retrievable by the person's name or address. The information is located in multiple offices – District Offices, the Program Services Branch and Regional Offices. Here is how this PIB could be described in the directory.

Title: Adopt-a-Highway Program.

Location: District Offices; Program Services Branch; Regional Offices.

Information maintained: Names of program applicants and participants, names of TV stations, names of radio stations, highway information.

Individuals: Participants and applicants of program, members of the media.

Use: Administer program and document contact with the media regarding local response to this highway clean-up program.

Legal authority: Freedom of Information and Protection of Privacy Act, s.33(c)

4. If information is maintained in a single collection, but the legal authority is different for different components of the collection, is it one PIB or multiple PIBs?

If the collection that maintains personal information is a single collection, it can be considered a single PIB, regardless of the number of Acts or legal authorities that may provide authority for parts of the collection. However, all of the legal authorities must be cited. Example #4 is one such case because the information is maintained as a single collection in the ministry's Vital Statistics (VISTAS) database.

Example #4

Alberta Registries of Alberta Government Services maintains vital statistic records. There is a wide range of personal information in the collection, and the personal information is retrievable by a person's name. While the information is maintained as a single collection, the authority to collect the information is based on a number of Acts. Here is how this PIB could be described in the directory.

Title: Vital Statistics registration records.

Location: Alberta Registries.

Information maintained: Names (including former names), citizenship, date and place of the event, family history, information pertaining to death, length of residence, mailing address, marital history, medical information, occupation, place of residence, registration date and number, religion, sex.

Individuals: Persons born, married, authorized to solemnize marriage, deceased, stillborn, changing their name or sex or declaring parentage in Alberta.

Use: Register and record Alberta births, deaths, marriages, persons authorized to solemnize marriage, stillbirths, name changes, record corrections, amendments, sex changes and court orders regarding parentage; compile, publish and distribute statistics; and provide certified copies, extracts, certificates and search notices for research, medical and law enforcement purposes.

Legal authority: Vital Statistics Act, Marriage Act, and *Change of Name Act*

5. When would a public body have "personal information" that would not be considered a PIB?

Many public bodies have files that may contain "personal information" such as names, addresses, and phone numbers, but which are not organized or searchable by a personal identifier. Because these collections do not meet **all** three criteria discussed earlier, they are not PIBs.

For example, there might be a collection of paper files containing research results that include a contact person. The files are organized by the ten individual research studies, and are not searchable by the contact's name. This would not be considered a PIB, although there is "personal information" maintained which must be safeguarded as personal information.

Sometimes, personal information in paper records is not considered a PIB because the information is neither organized nor retrievable by the individual's name or other unique identifier. However, if the information has been entered into a computer system, it may become retrievable by an individual's name or unique identifier. In these cases, the electronic collection of information may be considered a personal information bank. An example of this is illustrated in Example #5.

Example #5

Alberta Revenue manages the collection of taxes and certain receivables on behalf of the province. As part of the administration of the Hotel Room Tax, tax returns are stored in paper records and organized by the name of the hotel filing the tax return. While the collection of records (i.e. files) contains the personal information (for example, the names, addresses and financial information of hotel owners), the collection of personal information is not organized or retrievable by an individual's unique identifier. Thus, the paper records of the tax returns are not a PIB.

However, certain information in the tax return, including the names and financial information of hotel owners, is entered into a computer system. While information in the paper files is not organized by individual or retrievable by an individual's name or identifier, the computer system allows for a search, by individual, of hotel properties owned in the province. In this case, the paper records would not be considered a PIB. However, the computer database is considered a PIB because the personal information is retrievable by an individual's name.

Please note that the public bodies and PIBs cited in the above examples are for illustrative purposes only. For current information about a public body's personal information banks, contact the public body's FOIP Coordinator. Contact information is available on the FOIP web site at www.gov.ab.ca/foip/coordinators/.